CALIFORNIA ENERGY COMMISSION
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May 11, 2005

Gregory Klatt
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Arcadia, CA 91006

Re: **Energy Commission Order Denying APS' Appeal of Executive Director Determinations Denying Confidentiality – Electricity Demand Data; Docket: No. 04-IEP-01-D**

Dear Mr. Klatt:

Attached is a copy of the Energy Commission's Order denying APS Energy Service's appeal of the Executive Director's decision denying confidentiality for demand information Strategic submitted on February 9, 2005. Although the Order is dated April 13, 2005 -- the day of the Business Meeting at which the Energy Commission heard and decided the appeal -- I want to assure you that because the Order was not docketed until today, the Energy Commission will protect the disputed information from release for fourteen days from today. Please do not hesitate to contact me if you have any questions.

Very truly yours,

Caryn J. Holmes
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California Energy Commission

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STATE OF CALIFORNIA

Energy Resources Conservation and Development Commission

In the Matter of:	)	**Docket: 04-IEP-1D**
	)	**Order No: 05-0413-14**
Preparation of the 2005	)	
Integrated Energy Policy Report	)	**Date: April 13, 2005**
	)	

Order Denying APS Energy Services' Appeal of Executive Director Decision Denying Confidentiality

SUMMARY

On November 3, 2004, the California Energy Commission (Commission) adopted Forms and Instructions identifying demand forecast data that certain load-serving entities (LSEs) must provide, in order for the Commission to meet its statutory mandate to prepare the 2005 Integrated Energy Policy Report (2005 IEPR). (Pub. Resources Code, § 25302.) The data was due on February 1, 2005. On February 9, 2005, APS Energy Services (APS) filed the required data, and included an application for permanent confidential designation of Forms 1.1, 1.3, 2.4, and "hourly usage" (Form 1.6 – LSE Hourly Loads).[1] Pursuant to the Commission's regulations (Cal. Code Regs., tit. 20, § 2505), the application was reviewed by the Executive Director, who granted it in part and denied it in part on March 9, 2005. On March 23, 2005, APS filed an appeal of the Executive Director's decision denying confidentiality of some of the submitted information and limiting confidentiality to a 3-year period for that information for which confidentiality was granted. The Commission heard the appeal at its April 13, 2005 Business Meeting. Based on the APS application and appeal, the Executive Director's March 9, 2005 determination, and the information provided at the Business Meeting, the Commission hereby denies the APS appeal.

LEGAL FRAMEWORK

Public Resources Code sections 25301 and 25302 direct the Commission to assess all aspects of energy supply, production, transportation, delivery and distribution, demand, and prices, and to develop policies that conserve resources, protect the environment, ensure reliability, enhance the economy, and protect public health and safety. In order to carry out the assessments identified in Public Resources Code sections 25301 and 25302, Public Resources Code section 25301 authorizes the Commission to "require submission of demand forecasts, resource plans, market assessments, and related outlooks from electric . . . utilities . . .". Title 20, California Code of Regulations, section 1345, specifies that each electric utility shall provide a demand forecast "according to forms and instructions adopted by the Commission."[2]

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[1] A description of each of the Forms and a glossary of energy terms is included as Appendix A to this Order.

[2] For purposes of the Commission's data collection authority, "electric utility" includes load-serving entities such as APS. (Cal. Code Regs., tit. 20, §§ 1302, 1340, and 1341.)

The Public Records Act (Gov. Code, § 6250 et seq.) states that "access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state." (Gov. Code, § 6250.) The Act establishes a general principle that every person has the right to inspect any "public record," subject to various exceptions. (Gov. Code, § 6253.) Public records are broadly defined, and include "any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics." (Gov. Code, § 6252.) In addition, as of last year, the state Constitution now directs that statutes and regulations shall be broadly construed if they further the people's right of access, and narrowly construed if they limit the right of access. (Cal. Const., art. I, § 3, subd. (b)(2).)

One of the exceptions to the Public Records Act's general rule of disclosure is for "trade secrets." Government Code section 6254 (k) allows agencies to withhold "records the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege." One such "federal or state law" is the Uniform Trade Secrets Act (Civ. Code, § 3526 et seq.), a California law that prohibits the release of trade secret information and provides for injunctive relief and damages as remedies. Another is California Evidence Code section 1060, which states that "the owner of a trade secret has a privilege to refuse to disclose the secret, and to prevent another from disclosing it, if the allowance of the privilege will not tend to conceal fraud or otherwise work injustice." A "trade secret" is:

> information, including a formula, pattern, compilation, program, device, method, technique, or process, that:
>
> (1) Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and
>
> (2) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(Civ. Code, § 3426.1, subd. (d).) In addition, agencies may withhold records not exempt from disclosure under a specific Public Records Act exemption when the agency finds, on the facts of the particular case, that the public interest served by not disclosing the record "clearly outweighs" the public interest served by disclosure of the record. (Gov. Code, § 6255, subd. (a).)[3]

Title 20, California Code of Regulations, section 2505 allows private parties submitting information to the Commission to file an application for confidential designation of that information. If the basis of the claim for confidentiality is that the information contains trade secrets or would otherwise cause loss of a competitive advantage, the application must state the specific nature of that advantage and how it would be lost, including the value of the information to the applicant and the ease or difficulty with which the information could be legitimately

[3] Both the "trade secrets" exemption and the "balancing test" are also reflected in Public Resource Code, section 25322, which is part of the Warren-Alquist Act, which created the Commission. (Pub. Resources Code, § 25000 et seq.)

acquired or duplicated by others. Section 2505 requires the Executive Director, in consultation with the Chief Counsel, to issue a decision on the application within 30 days, and to grant the application if the applicant makes "a reasonable claim" that the Public Records Act or other provision of law authorizes the Commission to keep the record confidential. Appeals of Executive Director decisions denying confidentiality must be filed within fourteen days of the Executive Director's decision, and the Commission must decide an appeal within four weeks of its filing. (Cal. Code Regs., tit. 20, § 2505, subd. (a)(3)(B).)

PROCEDURAL HISTORY

APS is an "energy service provider" (ESP) -- that is, it sells electricity in California subject to the provisions of Public Utilities Code, section 394 et seq. In general, ESPs purchase from others all of the electricity that they in turn sell to customers, and transmit that electricity over utility-owned transmission and distribution systems. (Traditional utilities, both investor-owned and municipally-owned, own their own electricity transmission and distribution systems and often own their own powerplants, although they too purchase electricity from other entities as well.) ESPs and utilities also, on occasion, sell surplus electricity to other ESPs or utilities, who in turn sell it to consumers.

On February 9, 2005, APS provided the electricity demand forecast information pursuant to the Commission's November 3, 2004 Order, along with an application for permanent confidential designation of Forms 1.1, 1.3, 2.4, and "hourly usage"[4]. The APS application stated that the information could be used by competitors to undercut the APS business strategy or to extract better terms in contract negotiations. APS suggested that the public interest in disclosure could be satisfied by releasing aggregated ESP submittals on a statewide basis.

On March 9, 2005, the Executive Director granted a three-year term of confidentiality for Forms 1.6 and 2.4. In addition, confidentiality was granted for the geographic location (sector) data on Forms 1.1 and 1.3 for a period of three years, along with workpapers supporting the confidential data. All other information on Forms 1.1 and 1.3 was deemed public because the information is not sufficiently detailed to provide others with a competitive business advantage.

On March 23, 2005, APS appealed the Executive Director's decision, providing several bases for the appeal. First, APS claims that the Executive Director applied the wrong standard to the application by determining whether the information would provide others with a competitive advantage, rather than whether disclosure would cause the applicant a loss of competitive advantage. To support its position, APS cited section 2505(a)(1)(D) of the Commission's confidentiality regulations and *Uribe v. Howie* (1971) 19 Cal.App.3d 194 [96 Cal.Rptr. 493]. Second, APS claims that it made a reasonable showing that the data is a trade secret or that disclosure could cause APS to suffer a loss of competitive advantage. Third, APS states that the information for which confidentiality is sought would allow competitors to determine the amount of load APS has under contract, and the rate at which current contracts expire, thereby providing them with an accurate picture of APS' supply and demand portfolios, and causing APS to suffer a loss of competitive advantage in negotiating supply contracts and competing for customers. Finally, APS states that the three-year period of confidentiality for the data which is protected by

[4] Demand Forecast Form 1.6 requires identification of LSE hourly loads, which the Commission considers the same as "hourly usage".

the Executive Director's determination is insufficient because it includes information about contracted loads through 2016. APS reiterated its request for permanent confidentiality, but also suggested that a ten-year "rolling" period of confidentiality would be sufficient.

On April 13, 2005, the Commission conducted a hearing on the APS appeal, and the related appeals of two other ESPs and three investor-owned utilities (IOUs). At the hearing all three ESPs that filed appeals -- APS, Constellation NewEnergy, Inc. (Constellation), and Strategic Energy LLC -- modified their request to ask for a five-year rolling period of confidentiality for the data for which a three-year confidentiality period was granted. (4/13/05, Reporter's Transcript (RT), p. 8.) APS deferred to Constellation for an explanation of this modification. Constellation explained that a rolling average is important because one aspect of the forecast is its business plans, which should be protected into the future. (*Id.* at 26.) In response to questions about how forecast data could reveal business plan information, Commission staff explained that some ESPs merely reported their future load based on current contracts for each of the forecast years. (*Id.* at 32.) Staff agreed that over time, this style of forecast could reveal the amount of load the ESP has under contract and the length of those contracts. (*Id.* at 33.) However, Commission staff also pointed out that historic data on ESP total sales is published by the Energy Information Agency with a two-year time lag. (*Id.* at 44.)

Finally, although the ESPs did not explicitly discuss their annual peak electricity demand data (reported on Form 1.3), the issue was extensively addressed by the IOUs. Those entities claimed that there is a risk that annual peak electricity demand data could, in conjunction with other publicly available supply data, be used to calculate how much electricity the IOUs need, which in turn would allow sellers to charge them higher prices (or buyers to offer them lower prices) than would otherwise be the case. (The amount of electricity an ESP needs to buy is the difference between the hourly demand of its customers and the amount of electricity already under contract to the ESP that can be delivered to its customers during that hour.) Commission staff, on the other hand, pointed out that it is not enough to say that disclosure of annual peak electricity demand data (which is not tied to any specific hour of the year) would assist other market participants in calculating the gap between supply and demand at one (unspecified) point in the year. Rather, the question is whether this information would allow potential sellers (or buyers) to calculate hourly "residual net short", and thereby identify the kinds of resources the ESPs need.[5] (*Id.* at 77.) Staff analyst Dr. Michael Jaske stated that he is not convinced that simply "knowing the supply demand gap for a single peak hour . . . allows generators . . . to know what magnitude of resources [load-serving entities are] going to acquire, when they're going to acquire them, the kind of resources they're going to acquire." (*Ibid.*)

DISCUSSION

We begin our discussion by noting that the Public Records Act was intended to safeguard the accountability of government to the public. (*San Gabriel Tribune v. Superior Court* (1983) 143 Cal.App.3d 762, 771-772 [192 Cal.Rptr. 415].) Because it serves this important public interest

[5] Hourly "residual net short" refers to the amount of demand a load-serving entity needs to meet for any given hour, minus supplies available to meet that demand. The issue before the Commission in the IOU appeals is whether the annual peak demand numbers can be used to derive hourly "residual net short" and ESP resource needs, not whether hourly "residual net short" is entitled to confidential designation.

by securing public access to government records, it is construed broadly in favor of access, and exemptions from disclosure are construed narrowly. (*Rogers v. Superior Court* (1993) 19 Cal.App.4th 469, 476 [23 Cal.Rptr.2d 412].) The Commission is using the data that is the subject of this appeal to set important state energy policy, including both how much (and what kind of) electrical generation and transmission is necessary for the state's future. We believe there is a strong public interest in having the information underlying such policy decision-making accessible to the public and interested parties, rather than using a "black box" process not subject to public discussion or critique. This makes it all the more important that the Commission critically assess the general claim that information used in this process is a "trade secret" that derives economic value from not being made public. As can be seen in the discussion below, we have decided that the peak demand and retail sales data at issue in this appeal has no such value and, moreover, that its confidentiality would prevent interested persons from effectively participating in the Commission's public process.

Standard of Review

APS claims that the Executive Director applied the wrong standard to the application by determining whether the information would provide others with a competitive advantage, rather than whether disclosure would cause the applicant a loss of competitive advantage. We are not convinced that there is a relevant distinction, and even if there were, APS' standard of "harm to the applicant's competitive advantage" is the wrong choice. As noted above, the statutory definition states that a "trade secret" is information that has value because it is not disclosed "*to other persons who can obtain economic value from its disclosure or use.*" (Civ. Code, § 3426.1, subd. (d), italics added.) Thus, while the Commission's confidentiality regulations, and the case law cited by the applicant, refer to the loss of a competitive advantage, the statutory definition of the term "trade secret" refers to others gaining an economic advantage. APS did not address the significance, if any, of this distinction at the hearing.

Coincident Peak Demand by Sector for Each Service Area – Form 1.3 and Retail Sales of Electricity by Class or Sector for Each Service Area - Form 1.1

In its filing and at the April 13, 2005 hearing, APS did not distinguish between these two Forms, and we address them together here. There are two basic arguments APS put forth regarding the sensitivity of this data. First, to the extent that APS is competing against other suppliers, it believes that the forecast data contained on these Forms would allow other market participants access to its business plans and strategies, providing them with an advantage in competing for customers. (4/13/05, RT, p. 26.) Second, APS believes that disclosure of this information would put APS at a disadvantage in buying power, by providing potential buyers with information about how much power APS needs. (*Id.* at 27.) We address these issues sequentially.

First, with respect to the issue of forecast data revealing business plan data, we understand that certain forecast styles could, over time, reveal the amount of load an ESP has under contract and the lengths of those contracts. However, given that the geographic location (sector) data on Form 1.1 and 1.3 was granted a confidential designation -- thus allowing disclosure of load forecasts *only* on a statewide basis -- and that the federal Energy Information Administration (EIA) annually publishes the actual sales of energy to customers on a statewide *customer sector* basis (residential, commercial, industrial), the forecast that APS wants the Commission to keep confidential could not have a significant impact on the relative bargaining position of APS and

its competitors. The challenged forecast data does not provide any significant insight that cannot be obtained by analyzing the actual historical data. In essence, all that appears to be revealed by the challenged data is the aggregate level of business that APS planned to conduct within California as of early 2005. This is not enough to give any competitor an advantage in the market.

With respect to the second issue, we note that we are addressing similar claims raised by the investor-owned utilities. Our response is the same. While there appears to be no dispute that other market participants will be able to derive *some* estimate of how much electricity will be consumed by APS' customers at the (unspecified) hour of annual peak using the data on Form 1.3, the critical question is whether knowledge of the extent of the gap between supply and demand during the hour of highest annual demand -- without knowing when that hour will occur -- affects the bargaining power of APS and its potential suppliers (or purchasers). The answer to this question is no. In considering this question, we are mindful that the geographic location (sector) data on Form 1.3 was granted a confidential designation and that only the statewide peak demand data is being released to the public. Although that data is not publicly available from any other source at this time, a very close approximation can be calculated using publicly-available information: it is common practice for forecasters to convert energy sales (expressed in terms of kilowatt-hour of electricity consumer over time) into peak demand (expressed in terms of kilowatts of instantaneous demand) by applying a "load factor", which expresses the relationship between peak demand and consumption, and which is derived from historic data. The historic customer sector-specific data released by the federal EIA makes such an estimation process even more accurate. Thus, the effect of disclosure of the information APS seeks to prohibit from release is minimal at most.

In addition, the lack of specificity about *when* the hour of highest demand will occur further diminishes the potential value of the data. Potential sellers from whom APS might buy electricity market a variety of products that vary by price, by location of electricity delivery, by the duration of the contract, and by the amount and type of electricity purchased. Knowing peak demand at one (unspecified) hour of the year is not specific enough to allow a potential seller to make a calculation of relevant contract terms that would be precise and accurate enough to provide any negotiating leverage. Finally, we are mindful that the California Constitution requires us to narrowly construe our regulations if they limit public access to information, which further counsels us to favor disclosure over non-disclosure of the contested data. (Cal. Const., art. 1, § 3, subd. (b)(2).)

In light of these factors, disclosure of the information in Forms 1.1 and 1.3 would not cause a shift in bargaining power between APS and other market participants. Simply put, APS' claim that disclosure of this information will cause APS to lose economic value or other market participants to gain economic value is not convincing.

Term of Confidentiality – Forms 1.1, 1.3, 1.6, 2.4, and supporting workpapers

We believe that the term of confidentiality for data deemed confidential should be based on the length of time that the data could reasonably be expected to create economic benefit for APS if withheld, or to create an economic benefit for a competitor or economic harm to APS if released. The data requested by the Commission are estimates, and reflect many other assumptions. (*General Instructions For Demand Forecast Submittals*, p. 8.) All load forecasts submitted in

2005, and their assumptions, will be updated and re-submitted in 2007. (Pub. Resources Code, §§ 25302, 25320.) Therefore, the 2007 Energy Report demand forecast submissions will have been made before the expiration of the 3-year period of confidentiality granted by the Executive Director. When the 2007 submittals are made, the usefulness of the data that has been held confidential will be essentially nil. Therefore, a longer term of confidentiality is not justified.

FINDINGS OF FACT

1. On February 9, 2005, APS filed Electricity Demand Forecast Forms required pursuant to the Commission's November 3, 2004 Order, and requested permanent confidentiality for Forms 1.1, 1.3, 2.4, and "hourly usage.

2. On March 9, 2005, the Commission's Executive Director determined that APS, in its application for confidentiality, made a reasonable claim that Forms 1.6 and 2.4 and the geographic location (sector) data on Forms 1.1 and 1.3, along with supporting workpapers are entitled to be exempt from disclosure for a period of three years. The Executive Director also determined that all other information on Forms 1.1 and 1.3 is not sufficiently detailed to provide others with a competitive advantage and denied confidential status for that information.

3. On March 23, 2005, APS filed an appeal of the Executive Director's denial of confidentiality, claiming that the Executive Director applied the wrong standard to the application, that disclosure of the information would cause APS a loss of competitive advantage, and that the three-year period of confidentiality for the data which is protected by the Executive Director's determination is insufficient.

4. On April 13, 2005, the Commission held a hearing on the APS appeal. Comments were provided by Commission staff, APS, and other load-serving entities, including both other energy service providers and investor-owned utilities.

5. Certain forecast styles used to complete the sales data on Form 1.1 could, over time, reveal the amount of load an ESP has under contract and the lengths of those contracts. However, geographic location (sector) data is protected from release; therefore, release of the Form 1.1 data could reveal the sales forecast only on a statewide basis, which is of minimal, if any, value. In addition, ESP annual retail sales information is available on a historic basis, which provides a proxy for future sales that is similar to the forecast sales data on Form 1.1, reducing the potential value of Form 1.1 data even further.

6. APS' forecasted annual peak demand data on Form 1.3 identifies only the amount of demand for the hour of the year with the highest demand, and by itself, provides no information about *when* peak demand will occur, which electricity sellers need to know in order to seek to sell electricity to specifically meet peak demand.

7. The amount of electricity APS needs to buy for any particular hour is related to the difference between the amount of demand at that hour and the amount of all other energy already under contract to APS that can be delivered to APS customers. Sellers market a variety of short-term and long-term electricity products to APS that vary by the location of where the electricity is delivered and the type of energy provided. The sale of these

products does not depend solely on the single hour of the year with the highest demand. Therefore, knowing demand in that (unspecified) hour provides no economic advantage. Moreover, even if the data for which APS seeks confidentiality were to allow identification of when the hour of the year with the highest demand will occur, sellers would not be able to use this information to charge higher prices for their products (or buyers to offer lower prices), because of the numerous other factors that affect electricity sales contracts. Thus, disclosure of the annual peak demand data would not provide economic value to APS' buyers or sellers (or competitors).

8. Just as identification of the level of demand for the (unspecified) hour of year with highest demand does not allow others to identify the specific hour of the year with the highest demand, identification of this level of demand also does not allow others to identify when any other hours of high demand will occur.

9. Even if the forecasted annual electricity sales and forecasted annual electricity peak demand data would allow sellers to charge higher prices (or buyers to offer lower prices), the challenged data would still not provide an economic advantage to sellers (or buyers). This is because there is publicly available historical data – such as actual sales to classes of end-use customer submitted by LSEs to the federal EI and published by EIA and commonly-used load factors to derive peak demand from energy sales data -- that is similar enough to the data for which confidentiality is sought so that analysts familiar with the energy market could make close approximations to the data APS seeks to have designated as confidential. Disclosing the data APS seeks to have designated a confidential would provide little, if any, additional information.

10. The term of confidentiality for data deemed confidential is directly based on the length of time that the data could reasonably be expected to create economic benefit for APS if withheld, or to create an economic benefit for a competitor or economic harm to APS if released. The data requested by the Commission are estimates, and reflect many assumptions. All load forecasts submitted in 2005, and their assumptions, will be updated and re-submitted in 2007. (Pub. Resources Code §§ 25302, 25320.) The 2007 Energy Report demand forecast submissions will have been made before the expiration of the 3-year period of confidentiality granted by this Order, eliminating the economic value, and thus the trade secret status, of any of the confidential data.

CONCLUSIONS OF LAW

1. The Public Records Act was intended to safeguard the accountability of government to the public and should be construed broadly in favor of access. In addition, there is a strong public interest in having the information underlying such policy decision-making accessible to the public and interested parties, rather than using a "black box" process not subject to public discussion or critique. Thus, the Commission must critically assess the general claim that information used in this process is a "trade secret" that derives economic value from not being made public.

2. Forms 1.1, 1.3, 1.6, and 2.4 submitted by APS on February 9, 2005 in response to the Commission's November 3, 2004 Order Adopting Demand Forecast and Price Information Forms and Instructions are public records.

3. The Commission may withhold the records from disclosure if it finds that the records derive independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from their disclosure or use, and are the subject of efforts that are reasonable under the circumstances to maintain their secrecy, or if the Commission finds on the facts of the particular case that the public interest served by not disclosing the records clearly outweighs the public interest served by disclosure of the records (including finding that the competitive advantage accruing to APS from non-disclosure outweighs the public interest in a transparent energy policy development process).

4. Identification of APS' forecasted annual retail sales of electricity on Form 1.1 does not provide a competitive advantage to others or cause APS to lose a competitive advantage because this information is both aggregated to the statewide level and available on a historic basis, which provides a proxy for future demand that is similar to that contained on Form 1.1. Therefore, it is not a trade secret.

5. Identification of APS' forecasted annual peak demand on Form 1.3 does not provide a competitive advantage to others or cause APS to lose a competitive advantage because it is aggregated to a statewide level and is a single annual number whose disclosure does not allow anyone to calculate when that hour of highest demand will occur, nor when other hours of high demand will occur. Therefore, it is not a trade secret.

6. Because information on Forms 1.6 and 2.4 and geographic location (sector) data on Forms 1.1 and 1.3 are estimates that reflect many assumptions, and because the 2005 load forecasts will be updated prior to the expiration of the 3-year period of confidentiality granted by this Order, the usefulness of any confidential data filed in this proceeding for economic gain or marketing advantage is limited. Under these circumstances, a three-year period of confidentiality is reasonable for that data deemed eligible for confidential protection.

7. This proceeding has been conducted in conformity with applicable provisions of the Commission's regulations governing disclosure of information, the requirements of the Integrated Energy Policy Report, and the provisions of the Public Records Act.

ORDER

Therefore, the Commission ORDERS the following:

1. The Commission upholds the Executive Director's decision dated March 3, 2005, granting in part and denying in part the APS application for confidentiality.

2. The data in Electricity Demand Forecast Forms 1.1 and 1.3 filed by APS on February 9, 2005, other than the geographic location (sector) data, are public, but shall not be available for inspection or copying for a period of fourteen days from the issuance of this order. (Cal. Code Regs., tit. 20, §, 2505, subd. (a)(3)(C).)

3. The data in Electricity Demand Forecast Forms 1.6 and 2.4, and the geographic location (sector) data in electricity Demand Forecast Forms 1.1 and 1.3 filed by APS on February 9, 2005 shall remain confidential for a period of three years from the date of this order.

Date: April 13, 2005

STATE ENERGY RESOURCES
CONSERVATION AND
DEVELOPMENT COMMISSION

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Appendix A

DEFINITIONS

Load-serving Entities (LSEs)

These are entities that sell electrical energy at retail to customers within California. They include investor-owned utilities (further defined below), municipal utilities, energy service providers (further defined below), irrigation districts, rural electric cooperatives and a few other entities that serve a small number of retail customers. The following entities are identified in the Order to which this Appendix is attached:

> *Investor-owned utilities (*IOUs*)* – San Diego Gas and Electric Company, Pacific Gas and Electric Company, and Southern California Edison Company, who operate as monopolies regulated by the California Public Utilities Commission.
>
> *Energy Service Providers* (ESPs) - private business entities that sell electricity in California subject to the provisions of Public Utilities Code, section 394 et seq.

Distribution Utilities

These are entities that own and operate the lower voltage wires and transmission equipment that carry electrical energy from substations to retail customers in a franchise service area. IOUs are distribution utilities.

Peak Load (Peak Demand)

This is the highest electrical demand that an LSE experiences within a specified period of time (usually annually). For the 2005 IEPR, the Commission asked LSEs to identify maximum electrical demand for the hour of the year with the highest level of demand. LSEs meet peak demand by a variety of means – demand reduction programs, powerplants owned by the LSE, and electricity purchased by the LSE, either on a long-term or short-term basis.

Residual Net Short

This is the additional electricity resources an LSE needs to acquire to meet its retail customer electrical energy demand for any particular period of time, minus supplies already acquired to meet that demand. Residual net short is often expressed as "hourly residual net short" for a specified hour.

SUMMARY OF ADOPTED FORMS

Form 1.1 – Retail Sales of Electricity by Class or Sector

This Form asks LSEs to identify how much electricity (in gigawatt hours [GWh]) they anticipate they will sell at retail on an annual basis in the each of the years 2006 – 2016, broken down by customer class (or sector). Customer classes (sectors) are typically defined by the economic

sector of the customer --residential, commercial, industrial, agricultural, and other small categories. In addition, ESPs are asked to break down their sales totals by service territory as well (e.g., PG&E, SDG&E, etc.), as they may sell into multiple service territories.

Form 1.2 – Net Electricity for Generation Load

This Form asks distribution utilities (including IOUs) to identify how much electricity they anticipate will be needed each year of the forecast to meet demand within their service territory – including sales to the IOU's own customers as well as sales from other entities to non-IOU customers within the IOU service territory. The total amount of electricity needed to meet demand within a service territory includes electricity consumed by IOU customers (Form 1.1), electricity consumed by non-IOU customers, and the amount of energy lost in the transmission and distribution process.

Form 1.3 – LSE Coincident Peak Demand by Sector

This Form asks LSEs to identify hourly demand during the hour of the year with the highest total demand for all customer classes (or sectors) that they serve, by customer class (or sector). The total represents the highest amount of energy that the LSE will need to meet its customers' needs during the single hour of the year with the highest demand plus the amount of energy lost in the transmission and distribution process.

Form 1.4 – Distribution Area Peak Demand

This Form asks distribution utilities (including IOUs) to forecast the peak demand for its service territory, which consists of the level of demand during the single hour of the year with the highest demand. However, unlike, Form 1.3, Form 1.4 asks the utility to include demand from all customers within its service territory, not just demand from its own customers.

Form 1.5 – Peak Weather Scenarios

This Form asks distribution utilities (including IOUs) to provide demand for the single hour of the year with the highest demand under 4 different temperature scenarios - those that can be expected to occur once in every two years, every 5 years, every 10 years, and every 20 years.

Form 1.6 – LSE Hourly Load

The Form asks LSEs to identify how much energy they will need to provide for their customers for each hour of the 16-year forecast period.

Form 1.7 – Local Private Supply by Sector

This Form asks distribution utilities (including IOUs) to forecast the amount of their customer demand that will be met by non-utility-owned generation, such as customer-owned generation located on the customer's premises.

Form 2.1 – Economic and Demographic Inputs

This Form asks distribution utilities (including IOUs) to document the statewide and national economic and demographic projections used to develop their forecasts.

Form 2.2 – Planning Area Assumptions

This Form asks all LSEs to document the local economic and demographic projections used to develop their forecasts.

Form 2.3 – Electricity Rate Forecast and Natural Gas Price Forecast

This Form asks all LSEs to identify projected energy prices they used in developing their annual peak and energy forecast for each of the customer classes (or sectors).

Form 2.4 – Customer Count and Other Forecasting Inputs

This Form asks all LSEs to identify the number of customers by customer class (or sector).

Form 4 – Demand Forecast Methods and Models

This Form asks all LSEs to document the methods and models used to develop the forecasts identified on Forms 1.1 – 3.4.

Form 6 – Uncertainty Analysis

This Form asks all LSEs to identify which uncertainties it considers most relevant to its forecasts, as well as the impacts these uncertainties could have on its forecasts. LSEs are asked to quantify the impacts of the most significant uncertainties.